

Before the State of South Carolina
Department of Insurance

In the matter of:)	Consent Order
)	Imposing Administrative Fine
William D. Orr)	And Allowing Licensure
)	
1111 Old Gunter Road)	Investigation File Number
Piedmont, South Carolina 29673.)	100696
)	

This matter comes before me pursuant to an agreement entered into between the State of South Carolina Department of Insurance and William D. Orr, an applicant for licensee as a State of South Carolina resident insurance agent.

In December 1999, New York Life Insurance Company submitted an Application for Individual Insurance Agent's License on William D. Orr's behalf. The Application was denied because a report attached to it, compiled by the South Carolina Law Enforcement Division, revealed that Orr had been convicted by the State of South Carolina, Greenville County Magistrate Court in 1991 and 1992 of "Fraudulent Check" violations. Orr failed to disclose these convictions on his Application for Individual Insurance Agent's License. He contends that his failure to disclose this information to the Department was inadvertent, not an effort to circumvent the insurance laws of this State.

Orr was informed of his statutory privilege to request a public hearing to appeal the denial of the Application pursuant to the provisions of S. C. Code Ann. § 38-43-130 (Supp. 1999). Subsequently, however, the parties agreed, rather than proceeding toward a formal public hearing, to submit the entire matter to me, along with the specific recommendation, for my summary decision based solely on the record. That recommendation was that Orr would waive his right to a public hearing, pay a negotiated and consensual administrative fine of \$400, and New York Life Insurance Company submit a new, properly-completed application to the Department detailing his criminal convictions.

S.C. Code Ann. §§ 38-43-50 (1989) and 38-43-100 (Supp. 1999) require a candidate for licensure as a State of South Carolina resident insurance agent to be "trustworthy." 25A S.C. Code Ann. Reg. 69-23 §6 (1989) lists the qualifications required for an applicant to be licensed as a resident insurance agent. Subsection (g) of that section provides that an applicant's criminal record will serve as evidence of an applicant's moral character and trustworthiness. Additionally, because S.C. Code Ann. § 38-7-140 (Supp. 1999) makes it unlawful to fail to provide required information or to supply false or fraudulent information to the Department with the intent to evade a requirement of the State's insurance laws, the failure to disclose a conviction on an Application could demonstrate untrustworthiness or lack of moral character.

WDO William D. Orr

After a thorough review of the record, carefully considering the recommendation of the parties, and in accordance with my findings of fact, I now conclude, as a matter of law, that Orr failed to disclose fully his criminal convictions on the Application. This violation of South Carolina's insurance laws casts doubt on his character and trustworthiness. I can, therefore, deny his application to be licensed as a South Carolina resident insurance agent.

However, under the discretionary authority provided to me by the General Assembly within S.C. Code Ann. Section 38-2-10 (2) (Supp. 1999), I hereby allow Orr to become licensed as a resident insurance agent and impose on him, as a precondition to his license, an administrative fine in the total amount of \$400, which must be paid within ten days of my date and signature on this consent order. I also hereby require, as a precondition to Orr's licensure, that New York Life Insurance Company submit a new, properly-completed Application on his behalf.

This administrative penalty has been reached by the parties as a result of negotiation and compromise and is made in light of the conviction at issue being at about eight years old. By his signature upon this consent order, Orr acknowledges that he understands this administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1999). Nothing contained in this administrative disciplinary order should be construed to limit, or to deprive any person of, any private right of action under the law. Nothing contained in this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained in this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110 (4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the laws relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is therefore, ordered that William D. Orr, shall pay through the State of South Carolina Department of Insurance, an administrative fine in the total amount of \$400 and have New York Life Insurance Company submit a new, properly-completed Application for Individual Insurance Agent's License on his behalf.

It is further ordered that a copy of this consent order shall be transmitted to the National Association of Insurance Commissioners for distribution to its member states.

This consent order becomes effective as of the date of my signature below.

WDO William D. Orr



Ernst N. Csiszar
Director

February 10, 2000 at
Columbia, South Carolina

I Consent:



William D. Orr
1111 Old Gunter Road
Piedmont, South Carolina 29673

Dated this 8th day of February, 2000